

AMENDED IN SENATE APRIL 1, 2004

SENATE BILL

No. 1834

Introduced by Senator Bowen
(Principal coauthor: Senator Machado)

February 20, 2004

An act to add Chapter 22.7 (commencing with Section 22650) to Division 8 of the Business and Professions Code, relating to business.

LEGISLATIVE COUNSEL'S DIGEST

SB 1834, as amended, Bowen. Radio frequency identification systems.

Existing law imposes special business regulations on various businesses. ~~Existing law defines the term "unfair competition" and provides for the assessment of civil penalties for acts of unfair competition that may be recovered in an action brought by a governmental entity or by a person acting for the interests of itself, its members, or the general public.~~

~~This bill would require a person or prohibit a private entity that uses from using an electronic product code system that uses radio frequency identification (RFID) systems to comply tags attached to consumer products or an RFID reader to gather, store, use, or share information that could be used to identify an individual unless the entity complies with certain conditions, including obtaining an individual's written consent before attaching or storing personally identifiable information with data collected via an RFID tag or before any personally identifiable information collected via an RFID system is shared with a third party. The bill would make a violation of the bill an act of unfair competition that is subject to specified enforcement provisions, including actions brought by the Attorney General or a district attorney or city attorney.~~

The bill would authorize a library to use RFID tags attached to circulating materials to collect information that could be used to identify a borrower under specified conditions.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~—no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 22.7 (commencing with Section 22650) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 22.7. RADIO FREQUENCY IDENTIFICATION

~~22650. A person or entity that uses a radio frequency identification (RFID) system that can be used to gather information about an individual shall obtain written consent from an individual before any personally identifiable information of the individual, including name, address, telephone number, or credit card number, is attached to or stored with data collected via the RFID system.~~

~~22651. A person or entity shall obtain separate written consent from an individual before any personally identifiable information about the individual collected by an RFID system is shared with a third party.~~

~~22652. An individual shall have the right to access his or her personally identifiable information collected through an RFID system and the opportunity to make corrections to that information.~~

~~22653. A person or entity shall take reasonable measures to ensure that any individual data collected via an RFID system is transmitted and stored in a secure manner, and that access to the data is limited to those individuals needed to operate and maintain the RFID system.~~

~~22654. If a retail store uses an RFID system on a consumer product, the RFID tag shall be detached or destroyed before a consumer leaves the store.~~

~~22655. Collecting information through an RFID system that is aggregate in nature and that does not personally identify an individual is not a violation of this chapter.~~

~~22656. A violation of this chapter is an act of unfair competition under Chapter 5 (commencing with Section 17200) of Division 7 and subject to the enforcement provisions of that chapter.~~

22650. A private entity may not use an electronic product code system that uses radio frequency identification (RFID) tags attached to consumer products or an RFID reader that enables the user to collect information from RFID tags attached to consumer products to gather, store, use, or share information that could be used to identify an individual, unless all of the following conditions are met:

(a) The information is collected only to the extent permitted by law.

(b) The information has been provided by a customer for the purpose of completing a transaction to purchase or rent an item containing an RFID tag at a retail store.

(c) The information is not collected at any time before a customer actually initiates a transaction to purchase or rent an item or at any time after the customer completes the transaction.

(d) The information regards only a customer who actually presents the item for purchase or rent, and is in regard only to that item.

22651. A library may use an electronic product code system that uses radio frequency identification (RFID) tags attached to circulating materials only to collect, store, use, or share information that could be used to identify a borrower if all of the following conditions are met:

(a) The information is collected only to the extent permitted by law.

(b) The information has been provided by the borrower for the purpose of borrowing an item containing an RFID tag at the library.

(c) The information is not collected at any time before the borrower actually attempts to borrow the item or at any time after the customer completes the transaction to borrow the item containing the RFID tag.

- 1 (d) *The information is collected with regards only to a borrower*
- 2 *who actually attempts to borrow the item and is in regard only to*
- 3 *that item.*

O

